

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-261-T - ORDER NO. 2001-1007  
OCTOBER 15, 2001

IN RE: Application of Trey Ingram DBA Apartment Movers, Etc. of Charleston, 4048 Ashley Phosphate Road, North Charleston, SC for a Class E Certificate of Public Convenience and Necessity to Transport Household Goods. )  
ORDER GRANTING )  
CLASS E CERTIFICATE )

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Application of Trey Ingram d/b/a Apartment Movers, Etc. of Charleston (hereafter referred to as "Mr. Ingram" or the "Applicant"). By his Application, Mr. Ingram requests a Class E Certificate of Public Convenience and Necessity to transport household goods. Specifically, Mr. Ingram seeks authority to transport household goods as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):  
Between points and places in Charleston, Dorchester, and Berkeley Counties, SC to points and places in South Carolina and from points and places in South Carolina to points and places in Charleston, Dorchester, and Berkeley Counties, SC.

The Commission's Executive Director instructed Mr. Ingram to publish a Notice of Filing in a newspaper of general circulation in the service area desired. The Notice of Filing provided details of the Application and of the requested authority and provided information for public participation in the proceedings concerning the Application. As

required by the Commission's Executive Director, Mr. Ingram provided affidavits of publication of the Notice of Filing. No Petitions to Intervene were filed with regard to Mr. Ingram's Application.

A hearing on Mr. Ingram's Application was held on September 6, 2001, at 2:30 P.M. in the hearing room at the offices of the Commission. The Honorable William T. Saunders, Chairman, presided at the hearing. Mr. Ingram represented himself at the hearing. Florence P. Belser, Deputy General Counsel, represented the Commission Staff.

Trey Ingram and Kim Swanson testified in support of the Application. L. George Parker, Jr., Manager of the Transportation Department for the Public Service Commission of South Carolina testified on behalf of the Commission Staff.

#### **APPLICABLE LAW**

1. S.C. Code Ann. § 58-23-20 (Supp. 2000) provides in part:

No corporation or person, his lessees, trustees, or receivers may operate a motor vehicle for the transportation of persons or property for compensation on an improved public highway in this State except in accordance with the provisions of this chapter, except where the use of a motor vehicle is incidental only to the operation, and any such operation is subject to control, supervision, and regulation by the commission in the manner provided by this chapter.

2. S.C. Code Ann. § 58-23-40 (1976) provides:

No motor vehicle carrier shall hereafter operate for the transportation of persons or property for compensation on any improved public highway in this State without first having obtained from the Commission, under the provisions of Article 3 of this chapter, a certificate and paid the license fee required by Article 5.

3. S.C. Code Ann. § 58-23-590(A) (Supp. 2000) provides:

The commission shall promulgate regulations necessary to control entry and certification standards, set rates and charges, and establish enforcement procedures and powers to govern the operations of carriers of household goods and hazardous waste for disposal.

4. S.C. Code Ann. § 58-23-590(C) (Supp. 2000) provides:

The commission shall issue a common carrier certificate or contract carrier permit of public convenience and necessity if the applicant proves to the Commission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission's regulation; and
- (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirements of public convenience and necessity. The determination that the proposed service is required by the public convenience and necessity must be made by the commission on a case by case basis.

5. Following enactment of S.C. Code Ann. § 58-23-590, the Commission proposed amendments and changes to the Commission's regulations governing Motor Carriers. The amended regulations became effective in June 1998.

6. 26 S.C. Regs. 103-102(1) (Supp. 2000) defines "Certificate of PC&N" as

the certificate of public convenience and necessity authorized to be issued under the provisions of Chapter 23 of Title 58 of the Code of Laws of South Carolina, 1976. Certificates of PC&N shall be required of all for-hire passenger carriers, household goods carriers (except those operating exclusively within the limits of any municipality), and hazardous waste for disposal carriers. Holders of Certificates of PC&N shall be considered regulated carriers.

7. 26 S.C. Regs. 103-102(14) (Supp. 2000) defines “Common Carrier by Motor Vehicle” as “any person<sup>1</sup> which holds itself out to the general public to engage in the transportation by motor vehicle in intrastate commerce of persons or property for compensation, whether over regular or irregular routes, except as exempted in Section 58-23-50 and Section 58-23-70 of Code of Laws of South Carolina, 1976.”

8. A “Class E Motor Carrier” is defined in 26 S.C. Regs. 103-114 (Supp. 2000) as “a common carrier of property (household goods or hazardous waste for disposal) by motor vehicle including a motor vehicle containing goods packed by a packing service. A Class E motor carrier must obtain either a Certificate of PC&N or FWA from the Commission.”

9. 26 S.C. Code Regs 103-133 (Supp. 2000) is entitled “Proof Required to Justify Approving an Application” and provides in subsection (1) as follows:

(1) PC&N (Household Goods or Hazardous Waste for Disposal). An application for a Certificate of PC&N or to amend a Certificate of PC&N to operate as a carrier of household goods or hazardous waste for disposal by motor vehicle may be approved upon a showing that the applicant is fit, willing, and able to be appropriately perform the proposed service and that public convenience and necessity are not already being served in the territory by existing authorized service. The public convenience and necessity criterion must be shown by the use of shipper witnesses. If the Commission determines that the public convenience and necessity is already being served, the Commission may deny the application. The following criteria should be used by the Commission in determining that an applicant for motor carrier operating authority is fit, willing, and able to provide the requested service to the public:

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<sup>1</sup> 26 S.C. Code Regs. 103-102(15) defines “person” as “any individual, firm, partnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.”

- a. FIT. The applicant must demonstrate or the Commission determine that the applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T. and S.C.D.P.S safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety operations in South Carolina, and agree to operate in compliance with these statutes and regulations.
- b. ABLE. The applicant should demonstrate that he has either purchased or leased on a long-term basis necessary equipment to provide the service for which he is applying. Thirty days or more shall constitute a long-term basis. The applicant must undergo an inspection of all vehicles and facilities to be used to provide the proposed service. The applicant should also provide evidence in the form of insurance policies or insurance quotes, indicating that he is aware of the Commission's insurance requirements and the costs associated therewith.
- c. WILLING. Having met the requirements as to "fit and able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

10. 26 S.C. Code Regs. 103-134 (Supp. 2000) is entitled "When Hearing May Be Held" and provides in relevant part that "[w]hen an application for a Certificate of PC&N is submitted and there is no opposition, the Commission may hold a hearing if it deems necessary for the purpose as it shall determine, including the issue of fitness, willingness, or ability of the applicant to appropriately perform the proposed service, or the issue of whether public convenience and necessity are already being served."

**EVIDENCE OF RECORD**

Mr. Ingram testified in support of the Application. Mr. Ingram stated that he had experience in the business sector having worked as a manager in a bottling business and having worked in outside sales. Mr. Ingram stated that he had decided to relocate to the Charleston area and had found the opportunity to enter the moving business by buying a franchise of Apartment Movers Etc. from owner Kim Swanson.

According to Mr. Ingram, he is purchasing the Apartment Movers Etc. franchise from Kim Swanson. In the purchase, Mr. Ingram is purchasing equipment, such as trucks and incidental moving equipment, and computer programs on the business. Additionally, Mr. Ingram will be receiving a detailed information manual covering different aspects of the business. Mr. Ingram plans on retaining current employees. Some of the current employees have significant experience, including office employees and employees who actually perform the labor on the moves. Mr. Ingram stated that he has seven movers, two of whom hold a commercial drivers license.

According to Mr. Ingram, he has sufficient financial resources to begin offering local moving services in South Carolina and that he has access to additional financing if needed. Mr. Ingram stated that he has a good credit rating that would enable him to obtain financing from commercial institutions and that he has access to capital through family sources.

With regard to the need for moving services for which the applicant seeks authority, Mr. Ingram testified that he believes the Charleston area will support the services which he proposes to offer. Mr. Ingram indicated that he will continue to fill the

moving needs of a niche market which Ms. Swanson has identified and has served since 1995.

Mr. Ingram testified that there are no outstanding judgments pending against the business. He stated that he is aware of the Commission's regulations concerning insurance coverage and that the business currently carries adequate insurance coverage. Further, Mr. Ingram affirmed that he is familiar with the rules and regulations of the Public Service Commission of South Carolina and that he agrees to operate in compliance with the statutes and regulations governing for-hire motor carrier services.

Kim Swanson presented testimony regarding the need for moving services in the area sought to be served by Mr. Ingram and also regarding the sale of the franchise. According to Ms. Swanson, there exists a need for the services proposed to be offered by Mr. Ingram. Ms. Swanson presented evidence of the number of moves conducted by Apartment Movers, Etc. of Charleston for the years 1999, 2000, and 2001, and the evidence revealed an increase in the number of moves each year. Ms. Swanson testified that her business had performed 1125 moves in the Charleston area through August 2001. Of those 1125 moves, 187 were pursuant to a contract with the Medical University of South Carolina. Ms. Swanson testified that the contract of sale and the franchise agreement with Mr. Ingram would prevent her remaining business from originating moves within Charleston, Berkeley, and Dorchester Counties. Further, Ms. Swanson testified that the business which she is selling to Mr. Ingram includes a detailed manual of operations that covers all facets of operations. Additionally, Ms. Swanson stated that

she is available to assist Mr. Ingram in transition and in learning the business and that she would be available as a consultant should he request her assistance.

L. George Parker, Jr., manager of the Transportation Department of the Public Service Commission of South Carolina, presented testimony comparing the rates proposed by Mr. Ingram with the rates approved for the South Carolina Tariff Bureau.

### **FINDINGS OF FACT**

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact:

1. The Applicant, Trey Ingram, desires to provide moving services of household goods within and between points and places in Charleston, Dorchester, and Berkeley Counties, South Carolina and between points and places in Charleston, Dorchester, and Berkeley Counties, South Carolina to points and places in South Carolina and from points and places in South Carolina to points and places in Charleston, Dorchester, and Berkeley Counties, South Carolina. This finding of fact is supported by the testimony of Mr. Ingram and the submission of the Application requesting a Class E Certificate of Public Convenience and Necessity.

2. The Applicant, Trey Ingram, is fit, willing, and able to provide and properly perform the services which he seeks to provide. This finding of fact is based upon the testimony of Mr. Ingram and the Application submitted requesting the authority. "Fitness" was demonstrated by Mr. Ingram testifying (1) that the Applicant is aware of the requirement for a safety rating, (2) that there are no outstanding judgments pending against the Applicant, and (3) that the Applicant will operate in compliance with all

statutes and regulations pertaining to for-hire motor carrier operations. Further, the application contains (1) a certification that the Applicant is familiar with the regulations and statutes governing for-hire motor carrier services and (2) that there are no outstanding judgments pending against the Applicant. “Able” was demonstrated by Mr. Ingram testifying that the company currently operates in the Charleston area with four trucks and has over seven employees who are trained and currently providing the moving services the applicant seeks to offer in South Carolina. Mr. Ingram also provided evidence establishing that he possesses the financial wherewithal necessary to conduct for-hire motor carrier operations in South Carolina. Further, Mr. Ingram testified that he is aware of the Commission’s insurance requirements and provided testimony that he will maintain the sufficient insurance for the protection of the public. “Willingness” was demonstrated by the filing of the Application and the testimony of Mr. Ingram indicating the Applicant’s desire to undertake this business venture.

3. The services proposed by Trey Ingram are required by the public convenience and necessity. This finding of fact is based upon the testimony of Mr. Ingram and witness Kim Swanson. As the current owner of the business that Mr. Ingram is acquiring, Ms. Swanson provided testimony and evidence regarding the number of moves performed by the business for 1999, 2000, and 2001 to date. The evidence provided by Ms. Swanson reveals an increase in business over the almost three year period. Additionally, Ms. Swanson presented evidence regarding a contract for moving services with the Medical University of South Carolina which has resulted in over one hundred eighty moves in the first eight months of 2001. Ms. Swanson opined that there is

sufficient need in the Charleston area to support the business which Mr. Ingram is purchasing.

### **CONCLUSIONS OF LAW**

Based upon the above Findings of Fact and the applicable law, the Commission concludes as follows:

1. The Commission concludes that Trey Ingram has demonstrated through the Application and the testimony presented that he meets the requirements of fit, willing, and able as set forth in 26 S.C. Code Reg. 103-133 (Supp.2000).

2. The Commission concludes that Trey Ingram has sufficiently demonstrated through his presentation that the public convenience and necessity in the area in which he proposes to serve requires the services proposed by his Application.

3. Based on the conclusions above, that Trey Ingram has demonstrated that he meets the requirements of fit, willing, and able and that he has demonstrated that the public convenience and necessity require the services he proposes, the Commission concludes that a Class E Certificate of Public Convenience and Necessity should be granted to Trey Ingram d/b/a Apartment Movers, Etc. of Charleston with the authority to provide for the movement of household goods within and between points and places in Charleston, Dorchester and Berkeley Counties, South Carolina and between points and places in Charleston, Dorchester, and Berkeley Counties, South Carolina to points and places in South Carolina and from points and places in South Carolina to points and places in Charleston, Dorchester, and Berkeley Counties, South Carolina. This grant of authority is contingent upon Trey Ingram d/b/a Apartment Movers, Etc. of Charleston

complying with all Commission regulations, and this grant of authority is not effective until such time as Trey Ingram d/b/a Apartment Movers, Etc. of Charleston comes into compliance with the Commission regulations as outlined below.

IT IS THEREFORE ORDERED THAT:

1. The Applicant, Trey Ingram d/b/a Apartment Movers, Etc. of Charleston, should be granted a Class E Certificate of Public Convenience and Necessity authorizing Trey Ingram d/b/a Apartment Movers, Etc. of Charleston to provide transportation services by motor vehicle as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-210(1):  
Between points and places in Charleston, Dorchester, and Berkeley Counties, SC to points and places in South Carolina and from points and places in South Carolina to points and places in Charleston, Dorchester, and Berkeley Counties, SC.

2. Trey Ingram d/b/a Apartment Movers, Etc. of Charleston shall file the proper license fees and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by R.103-100 through R.103-241 of the Commission's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 26 (1976), as amended, and R.38-400 through 38-503 of the Department of Public Safety's Rules and Regulations for Motor Carriers, S.C. Code Ann. Vol. 23A (1976), as amended, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

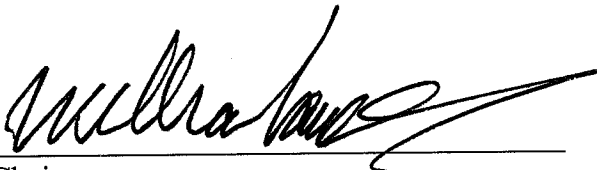
3. Upon compliance with S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann., Vol. 26

(1976), as amended, a Certificate shall be issued to Trey Ingram d/b/a Apartment Movers, Etc. of Charleston authorizing the motor carrier services granted herein.

4. Prior to compliance with the above referenced requirements and receipt of a Certificate, the motor carrier services authorized herein may not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)